

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

_____	X
	:
ANDREA A. WOLTER,	:
	: Civil Action No: 1:18-cv-00468
Plaintiff,	:
	:
- against -	:
	: <u>JURY TRIAL DEMAND</u>
FAIRFAX COUNTY SCHOOL BOARD	:
AND FAIRFAX COUNTY PUBLIC	:
SCHOOLS,	: COMPLAINT
	:
Defendants.	:
_____	X

COMES NOW, Plaintiff Andrea A. Wolter and brings this action against Defendants Fairfax County School Board and Fairfax County Public Schools because Plaintiff Andrea A. Wolter filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) against Defendant Fairfax County Public Schools alleging that Defendant Fairfax County Public Schools engaged in various unlawful employment actions against Plaintiff Andrea A. Wolter designed to discriminate against her based on her disability, to place her in a hostile work environment based on her disability, to label her as a whistleblower because she refused to commit an illegal act, discharged her because of her disability, failed to rehire her because of her disability, failed to accommodate her disability, and retaliated against her because she objected to and opposed certain unlawful employment practices.

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1332 and 1343. This action is authorized and instituted pursuant to the Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

2. Plaintiff Andrea A. Wolter is a citizen of the United States of America and a resident of the Commonwealth of Virginia. Plaintiff Andrea A. Wolter currently resides in the City of Ashburn in Loudoun County, Virginia.

3. Defendant Fairfax County School Board is charged by the statutes of the Commonwealth and the regulations of the Virginia Board of Education to operate the public schools of Fairfax County by setting general school policy and establishing guidelines that will ensure the proper administration of the Fairfax County Public Schools programs.

4. Defendant Fairfax County Public Schools is a school division of the Commonwealth of Virginia, which administers public schools in Fairfax County and the City of Fairfax.

5. Defendant Fairfax County School Board, at all times relevant, had more than fifteen (15) employees.

6. Defendant Fairfax County Public Schools, at all times relevant, had more than fifteen (15) employees.

7. Defendants Fairfax County School Board and Fairfax County Public Schools at all times relevant have been employers within the meaning of the Americans with Disabilities Act.

7. Plaintiff Andrea A. Wolter and Defendants Fairfax County School Board and Fairfax County Public Schools are subject to the jurisdiction of this court in this matter.

8. Plaintiff Andrea A. Wolter, more than thirty (30) days prior to the institution of this lawsuit, filed a charge of disability discrimination with the EEOC regarding Defendants Fairfax County School Board and Fairfax County Public Schools alleged violations of the American with Disabilities Act. The EEOC issued Plaintiff Andrea A. Wolter a notice of right

to file suit in the United States District Court, pursuant to EEOC Charge No. 570-2017-02019.

All conditions precedent to the institution of this lawsuit have been fulfilled. (See Exhibit A, EEOC's January 23, 2018, Notice of Right to Sue).

9. Plaintiff Andrea A. Wolter filed a charge of disability discrimination against Defendant Fairfax County Public Schools in 2017 and Defendant Fairfax County Public Schools was duly served with that charge of disability discrimination and has had actual knowledge of Plaintiff Andrea A. Wolter's charge of disability discrimination. Defendant Fairfax County School Board was also served with a copy of the charge and has had actual knowledge of Plaintiff Andrea A. Wolter's charge of disability discrimination.

10. Plaintiff Andrea A. Wolter alleged in EEOC charge No. 570-2017-02019 that Defendant Fairfax County School Board and Fairfax County Public Schools discriminated against her based on her disability, placed her in a hostile work environment, labeled her as a whistleblower because she refused to commit an illegal act of falsifying the completion of a four month progressive assessment, which was pushed up and she was required to complete the assessment before she left work in two administrative days, discriminatorily discharged her, failed to rehire her, failed to accommodate her disability, and retaliated against her because she objected to and opposed Defendants Fairfax County School Board's and Fairfax County Public Schools' unlawful employment practices.

11. Plaintiff Andrea A. Wolter is a Certified and Credentialed School Teacher, who is qualified to teach school in Fairfax County, Virginia at any of Defendants Fairfax County School Board's and Fairfax County Public Schools' school locations, as either a General Teacher or as a Special Education Teacher.

12. Plaintiff Andrea A. Wolter has been diagnosed as an individual who has a

qualified disability that substantially impacts her quality of life but who can perform the essential functions of her job as a school teacher with an accommodation. Plaintiff Andrea A. Wolter has been diagnosed by her medical doctor with the disability of Post-Traumatic Stress Disorder (PTSD) and a sleep disorder, which substantially limits her quality of life functions and is considered by Defendants Fairfax School Board and Fairfax County Public Schools to have a disability. In fact, Plaintiff Andrea A. Wolter was placed on short term disability by Defendants Fairfax School Board and Fairfax County Public Schools.

13. Plaintiff Andrea A. Wolter entered into a contract to teach school for the 2017 and 2018 academic school year at one of Defendants Fairfax School Board's and Fairfax County Public Schools' locations after she was released from her short-term disability. Plaintiff Andrea A. Wolter was released by her doctor to return to work after the short-term disability with a direction from her doctor that Defendants Fairfax School Boards and Fairfax County Public School provide Plaintiff Andrea A. Wolter with a reasonable accommodation that she return to work but not be sent to work at a school location that would substantially impact her PTSD diagnosis. Plaintiff Andrea A. Wolter determined that the accommodation would not impact Defendants Fairfax School Board's and Fairfax County Public Schools' ability to discharge their functions and would require a minimum of effort to accommodate her doctor's reasonable accommodation request and would not impose an undue hardship on any of Defendants Fairfax School Board's and Fairfax County Public Schools' locations. Plaintiff Andrea A. Wolter also identified approximately 20 school locations at which she could be employed during the school year that had available General Teaching positions.

14. Plaintiff Andrea A. Wolter experienced a medical situation, on August 25, 2017, at Defendants Fairfax County School Board's and Fairfax County Public Schools' White Oaks

Elementary School location that aggravated her PTSD medical condition. Plaintiff Andrea A. Wolter while at the White Oaks location experienced a medical condition that caused her request to be allowed to proceed to a school area to regain her composure after having experienced vomiting and distress due to the PTSD medical episode. Defendants Fairfax County School Board's and Fairfax County Public Schools' White Oaks Principal, Mr. Ryan Richardson, refused to provide Plaintiff Andrea A. Wolter with a reasonable accommodation of allowing her to compose herself to address the PTSD medical condition and to enter her office to alleviate her PTSD onset. Although Defendants Fairfax County School Board's and Fairfax County Public Schools' Principal recognized that Plaintiff Andrea A. Wolter was experiencing a PTSD episode and she needed to be accommodated by allowing her to enter her office, he refused to allow her to enter her office and Mr. Ryan Richardson escorted Plaintiff Andrea A. Wolter from the school into the school's parking lot.

15. Plaintiff Andrea A. Wolter's medical disability was commenced on January 20, 2017 but was diagnosed by her doctor on August 18, 2017, as experiencing "generalized anxiety disorder with severe anxiety" with the result that she was "unable to work on the Individual Education Plan (IEP) due to the underlying anxiety" and unable "to work as a Special Education Teacher and less work to commute distance." Plaintiff Andrea A. Wolter's doctor prescribed the treatment of Zoloft for anxiety management but he recommended that she could perform the essential functions of her job if she did not work as a Special Education Teacher.

16. Plaintiff Andrea A. Wolter has been able to perform the essential functions of her job as a school teacher with the reasonable accommodation of permitting her to teach at a school location that does not include Special Education. Defendants Fairfax County School Board and Fairfax County Public Schools decided that although they have school locations at which

Plaintiff Andrea A. Wolter could work with no stress on Plaintiff Andrea A. Wolter's medical disability and no impact would occur on Defendants Fairfax County School Board's and Fairfax County Public Schools' work decided that it just did not want to provide the reasonable accommodation to Plaintiff Andrea A. Wolter. In fact, Defendants Fairfax County School Board's and Fairfax County Public Schools' Principal stated that he was firing Plaintiff Andrea A. Wolter and he did not have to accommodate Plaintiff Andrea A. Wolter.

17. Plaintiff Andrea A. Wolter decided to file charge No. 570-201702019 with the EEOC alleging disability discrimination and retaliation. Defendants Fairfax County School Board's and Fairfax County Public Schools' Principal later decided that he did not have the authority to fire but decided to retaliate against Plaintiff Andrea A. Wolter's by giving her the IEP assignment with a very short and unreasonable deadline to complete before she left work on leave. Plaintiff Andrea A. Wolter commenced working on the assignment but was unable to complete the assignment within the short deadline provided by Defendants Fairfax County School Board's and Fairfax County Public Schools' Principal. Defendants Fairfax County School Board's and Fairfax County Public Schools' thereafter refused to rehire Plaintiff Andrea A. Wolter as a General Teacher as an act of retaliation for having filed her charge of disability discrimination and retaliation with the EEOC.

18. Defendants Fairfax County School Board's and Fairfax County Public Schools' Principal further falsely accused Plaintiff Andrea A. Wolter of having abandoned her position because she filed her charge of disability discrimination and retaliation with the EEOC.

19. Defendants Fairfax County School Board's and Fairfax County Public Schools' then gave Plaintiff Andrea A. Wolter a negative employment evaluation, although Plaintiff Andrea A. Wolter's employment was more than satisfactory.

WHEREFORE, Plaintiff Andrea A. Wolter prays that this Court:

- (a) Award Plaintiff Andrea A. Wolter Judgment against Defendants Fairfax County School Board and Fairfax County Public Schools based on disability discrimination and retaliation in the amount of \$300,000 for each act of disability discrimination and retaliation;
- (b) Award Plaintiff Andrea A. Wolter the back pay that she lost because of Defendants Fairfax County School Board's and Fairfax County Public Schools' discrimination when they failed and refused to provide her with a reasonable accommodation pursuant to her doctor's recommendation;
- (c) Award Plaintiff Andrea A. Wolter damages for the loss of her work and salary for failing and refusing to permit her to teach at an available school location;
- (d) Award Plaintiff Andrea A. Wolter damages because of Defendants Fairfax County School Board's and Fairfax County Public Schools' retaliation against her that she has had to endure;
- (e) Award Plaintiff Andrea A. Wolter injunctive relief against Defendants Fairfax County School Board and Fairfax County Public Schools for the disability discrimination and retaliation, including the removal of the negative employment evaluation;
- (f) Award Plaintiff Andrea A. Wolter her costs of this action and a reasonable attorney's fee; and
- (g) Award Plaintiff Andrea A. Wolter such other and further relief as this Court may deem proper, just and necessary to make Plaintiff Andrea A. Wolter

whole and to prevent Defendants Fairfax County School Boards and Fairfax County Public School from further violations of the Americans with Disability Act.

JURY TRIAL DEMAND

Plaintiff Andrea A. Wolter Demands a Jury Trial on all questions of facts raised by this complaint.

AFFIDAVIT

I hereby swear and affirm that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated this 20th Day of April, 2018

/s/ Andrea A. Wolter
Plaintiff Andrea A. Wolter

Dated this 20th of April, 2018

Respectfully submitted,

By: /s/ Johnnie Louis Johnson III
Johnnie Louis Johnson III (VSB No. 16400)
LAW OFFICES OF JOHNNIE LOUIS
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The EEOC's January 23, 2018 Notice of Right to Sue

Exhibit A

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Andrea A. Wolter**
1473 Maseno Drive
Venice, FL 34292

From: **Washington Field Office**
131 M Street, N.E.
Suite 4NW02F
Washington, DC 20507



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

570-2017-02019

Alan W. Anderson,
Deputy Director

(202) 419-0756**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Mindy E. Weinstein
Mindy E. Weinstein,
Acting Director

JAN 23 2018

Enclosures(s)

(Date Mailed)

CC:

Deanna Rodgers
Coordinator, Office Of Equity & Compl
FAIRFAX COUNTY PUBLIC SCHOOLS
8115 Gate House Rd
Falls Church, VA 22042